

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 322**

Citations Affected: IC 36-1-17.

Synopsis: Local spending on criminal defense. Conference committee report for ESB 322. Provides that a county, municipality, township, or municipal corporation may not pay the legal expenses of an employee or officer to defend against a criminal action, certain civil actions, or a proceeding in which the employee or officer is charged with an infraction. Requires reimbursement of the reasonable expenses of the employee or officer (as determined by the local unit) if the employee or officer is found to have no criminal or civil liability. **(This conference committee report removes a provision concerning permitting a county fiscal body to change the compensation of a newly elected county officer under certain circumstances and makes technical corrections.)**

Effective: Upon passage.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 322 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 36-1-17 IS ADDED TO THE INDIANA CODE AS
- 3 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
- 4 PASSAGE]:
- 5 Chapter 17. Defense Expenses for Unit and Municipal
- 6 Corporation Officers and Employees
- 7 Sec. 1. As used in this chapter, "criminal action" means a
- 8 prosecution against an individual alleging the commission of a
- 9 felony or misdemeanor.
- 10 Sec. 2. Except as provided in section 3 of this chapter, a unit or
- 11 municipal corporation may not pay the legal expenses incurred by
- 12 an officer or employee of the unit or the municipal corporation:
- 13 (1) in defending against:
- 14 (A) a criminal action;
- 15 (B) a civil action brought by the attorney general of the
- 16 United States, a United States attorney, the attorney general
- 17 of Indiana, or an Indiana prosecuting attorney under:
- 18 (i) IC 34-24-1;
- 19 (ii) IC 34-24-2;
- 20 (iii) IC 34-24-3;
- 21 (iv) IC 5-11-5;
- 22 (v) IC 5-11-6;

(vi) IC 5-13-6;

(vii) IC 5-13-14-3; or

(viii) 18 U.S.C. 1964; or

(C) a proceeding to enforce an ordinance or a statute defining an infraction; or

(2) who is the target of a grand jury investigation, if the scope of the investigation includes a claim that the officer or employee committed a criminal act.

Sec. 3. (a) An officer or employee of a unit or municipal corporation who is charged with:

(1) a crime; or

(2) an infraction;

relating to an act that was within the scope of the official duties of the officer or employee may apply to the fiscal body of the unit or municipal corporation for reimbursement of reasonable and customarily charged expenses incurred in the officer's or employee's defense against those charges, if all charges have been dismissed or the officer or employee has been found not guilty of all charges. The fiscal body of the unit or municipal corporation shall reimburse the officer or employee for reasonable and customarily charged expenses, as determined by the fiscal body of the unit or municipal corporation, incurred in the officer's or employee's defense against those charges, if all charges have been dismissed or the officer or employee has been found not guilty of all charges.

(b) An officer or employee of a unit or municipal corporation who is the target of a grand jury investigation may apply to the fiscal body of the unit or municipal corporation for reimbursement of reasonable and customarily charged expenses incurred by the officer or employee resulting from the grand jury investigation, if the grand jury fails to indict the officer or employee and the acts investigated by the grand jury were within the scope of the official duties of the officer or employee. The fiscal body of the unit or municipal corporation shall reimburse the officer or employee for reasonable and customarily charged expenses, as determined by the fiscal body of the unit or municipal corporation, incurred by the officer or employee as a result of the grand jury investigation, if the grand jury fails to indict the officer or employee.

(c) An officer or employee of a unit or municipal corporation who is the defendant in a civil action described in section 2(1)(B)(i) through section 2(1)(B)(viii) of this chapter and brought by a person described in section 2(1)(B) of this chapter that involves an action within the scope of the official duties of the officer or employee may apply to the fiscal body of the unit or municipal corporation for reimbursement of reasonable and customarily charged expenses incurred in the officer's or employee's defense in the civil action. The fiscal body of the unit or municipal corporation shall reimburse the officer or employee for reasonable and customarily charged expenses incurred in the officer's or employee's defense against the civil action if:

(1) all claims that formed the basis of the civil action have been dismissed; or

1 **(2) a judgment is rendered in favor of the officer or employee**
2 **on all counts in the civil action.**
3 **Sec. 4. The fiscal body of a unit or municipal corporation may:**
4 **(1) act on an application under section 3 of this chapter without**
5 **a hearing; and**
6 **(2) require an officer or employee seeking reimbursement**
7 **under this chapter to:**
8 **(A) answer questions under oath; or**
9 **(B) provide information or documents concerning the case or**
10 **investigation for which the officer or employee is seeking**
11 **reimbursement.**
12 **SECTION 2. An emergency is declared for this act.**
 (Reference is to ESB 322 as printed March 29, 2005.)

Conference Committee Report
on
Engrossed Senate Bill 322

Signed by:

Senator Bray
Chairperson

Representative Foley

Senator Mrvan

Representative Bardon

Senate Conferees

House Conferees